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Arizona State Legislature

1700 West Washington

Phoenix, Arizona 85007

May 31, 2022

The Honorable Chairwoman Lea Marquez-Petersen
and Commissioners
1300 W Washington St.
Phoenix, AZ 85007

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Chairwoman and Commissioners:

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We are writing today, concerned with the recent decision in Salt River Project's (SRP) Application for a Certificate of Environmental Compatibility (CEC) for their Coolidge Generating Station. The decision appears to be a political decision, grounded in ideology and the unhealthy influence of well-funded special interest groups, not the enumerated factors carefully laid out by the Legislature in statute. We are most concerned because the Commission's decision places the affordability and reliability of Arizona's energy grid at risk. We will detail a few of our most significant concerns below.

First, we believe the Commission exceeded its statutory Line Siting authority in decision #78545, by using the selection of specific generation resources as a reason to disapprove. By design, the Commission does not have the authority to regulate SRP's rates, management, or resource procurement decisions. The Commission does have some legislatively delegated authority over Line Siting matters, as found in Title 40 of Arizona Revised Statutes. We agree with SRP when it stated in its Request for Rehearing and Reconsideration that "the Commission may not lawfully deny an Application on the basis that SRP did not conduct an additional All Source Request for Proposal (RFP), that the SRP Board process was allegedly "rushed", or that the SRP Board purportedly did not review the E3 report" [*SRP Request for Rehearing and Consideration p. 2*]. The authority to regulate SRP's generation resource decisions was not expressly granted to the Commission by the Constitution. It was certainly not delegated to the Commission through the Line Siting statutes.

Commission staff appear to agree because in their recommendation they state, "Staff would also like to note that it does not believe the Line Siting statutes allow the Committee or Commission to make resource planning decisions on behalf of SRP. Rather, as many have pointed out today, the statute requires the Committee and Commission to base its decision on the factors enumerated in ARS Section 40-360.06" [*Oral Argument March 16, 2022, 204:24-205:22*]. Whether SRP used an All Source RFP or whether or not the SRP Board had all the necessary information pertaining to the available generation resources are not factors to be considered by

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the Commission. The Commission was only to consider the factors found in ARS Section 40-360.06. The Commission's decision is an attempt to question the choice of resource selection. The Line Siting Committee appears to have considered the factors contained in statute and voted 7-2 to approve the CEC. The findings of the Commission are resource planning decisions, outside the scope of the Line Siting statutes, which the Commission's own staff warned against. The Commission's decision to attempt to regulate resource planning decisions by SRP exceeds the authority granted the Commission. We urge the Commission to reverse its decision and approve the Application.


Second, we are concerned with the inaccuracies cited as facts in the Commission's decision, namely that SRP failed to provide the Commission a power flow and stability analysis, as found in Finding of Fact #5 and that residents of Randolph "have not been treated equitably with other more affluent white communities" as found in Finding of Fact #7. SRP was easily able to show that the Finding of Fact #5 was inaccurate in the Request for Rehearing and Reconsideration by showing that the Commission parroted inaccurate statements from an intervenor on this issue. Commission Staff had indeed received the updated power flow and stability analysis; therefore, Finding of Fact #5 is not a fact [*SRP Request for Rehearing and Consideration p. 11*]. Additionally, SRP showed that the per household mitigation cost completed in Gilbert, a predominantly white neighborhood, was \$1,250 per household as compared to the proposed \$31,750 to \$39,000 per household in Randolph, a historically black community [*SRP Request for Rehearing and Consideration p. 8*]. Such a disparity is counter to the purported factual statement in Finding of Fact #7. The historically black community of Randolph is receiving more than 30 times the amount of mitigation funding as compared to the predominately white neighborhood of Gilbert; therefore, Finding of Fact #7 is not a fact.

Finding of Facts are the foundation of any Commission decision. The Commission's use of inaccurate Finding of Facts erodes trust in the institution and likely violates due process. The Commission's decision, based on erroneous factual data, has placed the affordability and reliability of Arizona's energy grid at risk. Absent compelling evidence, currently not found in the decision, the Commission has no choice but to approve SRP's CEC. Once again, we urge the Commission to reverse its decision and approve the Application.

Respectfully,


Russell W. "Rusty" Bowers
SPEAKER OF THE HOUSE


Karen Fann
SENATE PRESIDENT


Representative Gail Griffin
House Energy Committee Chair


Senator Sine Kerr
Senate Energy Committee Chair